

REVENUE AND TAXATION CODE

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Property Taxes Law Guide
BANK AND CORPORATION TAX LAW

REVENUE AND TAXATION CODE

DIVISION 2. OTHER TAXES

PART 11. BANK AND CORPORATION TAX LAW

CHAPTER 2. THE BANK AND CORPORATION FRANCHISE TAX

Article 2. Tax on General Corporations *

§ 23154. Tax in lieu of other taxes on general corporate franchise; taxation of special franchises.

23154. Tax in lieu of other taxes on general corporate franchise; taxation of special franchises. The tax imposed under this chapter is in lieu of all ad valorem taxes and assessments of every kind and nature upon the general corporate franchises of the corporations taxable under this chapter but is not in lieu of any taxes or assessments upon real property interests not otherwise exempted from taxation or assessment, that are created by special franchises owned, held, or used by those corporations. All those real property interests, not otherwise exempted from taxation or assessment, that are created by those special franchises shall be assessed annually by the board, at their actual value, in the same manner as is provided for the assessment of other property to be assessed by that board under Section 19 of Article XIII of the California Constitution, and shall be subject to taxation to the same extent and in the same manner as other property assessed under that constitutional provision by the board. For purposes of assessing a real property interest pursuant to the preceding sentence, the value of intangible assets or rights shall not enhance or be reflected in the value of that real property interest, except that the real property interest may be assessed and valued by assuming the presence of intangible assets and rights necessary to put the real property to beneficial or productive use.

History.—Stats. 1974, Ch. 311, in effect January 1, 1975, substituted “Section 19” for “Section 14” after “under” in the second sentence. Stats. 1995, Ch. 498, in effect January 1, 1996, added “real property interests not otherwise exempted from taxation or assessment, that are created by” after “taxes or assessments upon”, added “,” after “held”, and substituted “those” for “said” after “used by” in the first sentence; substituted “those real property interests, not otherwise exempted from taxation or assessment that are created by those” for “such” after “all”, substituted “that” for “said” after “assessed by”, substituted “California Constitution” for “Constitution of this State” after “Article XIII of the”, and substituted “assessed under that constitutional provision by the board” for “so assessed by said board” after “other property” in the second sentence; and added the third sentence.

Note.—Section 10 of Stats. 1996, Ch. 171, in effect July 17, 1996, provided that the amendments to Section 23154 of the Revenue and Taxation Code made by Section 17 of Chapter 498 of the Statutes of 1995 do not constitute a change in, but are declaratory of, existing law.

Assessment of property.—An assessor has authority to assess special franchise and taxable possessory interest of cable television company which is not a public utility and which uses public rights-of-way and public streets for cables. *Cox Cable San Diego, Inc. v. San Diego County*, 185 Cal.App.3d 368.

* Article 2 was added by Stats. 1949, Ch. 557, in effect October 1, 1949.

Article 3. Tax on Banks and Financial Corporations *

- § 23181. Banks; imposition on net income; method of taxing national banking associations; tax on bank ceasing business, dissolving or withdrawing; minimum tax.
§ 23182. Banks and financial corporations; tax in lieu of other taxes and licenses.
§ 23183. Financial corporations; franchise tax on net income.

23181. Banks; imposition on net income; method of taxing national banking associations; tax on bank ceasing business, dissolving or withdrawing; minimum tax. (a) Except as otherwise provided herein, an annual tax is hereby imposed upon every bank doing business within the limits of this state according to or measured by its net income, upon the basis of its net income for the next preceding income year at the rate provided under Section 23186.

(b) If a bank commences to do business and ceases doing business in the same taxable year, the tax for such taxable year shall be according to or measured by its net income for such year, at the rate provided under Section 23186.

(c) With respect to a bank, other than a bank described in subdivision (b), which ceases doing business after December 31, 1972, the tax for the taxable year of cessation shall be:

(1) According to or measured by its net income for the next preceding income year, to be computed at the rate prescribed in Section 23186, plus

(2) According to or measured by its net income for the income year during which the bank ceased doing business, to be computed at the rate prescribed in Section 23186.

(d) In the case of a bank which ceased doing business before January 1, 1973, but dissolves or withdraws on such date or thereafter, the tax for the taxable year of dissolution or withdrawal shall be according to or measured by its net income for the income year during which the bank ceased doing business, unless such income has previously been included in the measure of tax for any taxable year, to be computed at the rate prescribed under Section 23186 for the taxable year of dissolution or withdrawal.

(e) Commencing with income years ending in 1980, every bank shall pay to the state a minimum tax (determined in accordance with Section 23153) or the measured tax imposed on its income, whichever is greater.

(f) (1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

* Article 3 was added by Stats. 1949, Ch. 557, in effect October 1, 1949.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

History.—Amended by Stats. 1971, Ch. 1304, in effect October 29, 1971. Amended by Stats. 1972, Ch. 773, in effect March 7, 1973. Amended by Stats. 1977, Ch. 552, in effect September 3, 1977. Stats. 1979, Ch. 1150, in effect September 29, 1979, added subdivision (e). Stats. 1987, Ch. 1442, in effect January 1, 1988, substituted “doing business” for “located” after “bank”, and deleted “with respect to the taxation of national banking associations, the state adopts the method numbered (4) authorized by the act of March 25, 1926, amending Section 5219 of the Revised Statutes of the United States, Title 12, Section 548, United States Code.” from the end of subdivision (a). Stats. 1988, Ch. 1465, in effect September 28, 1988, substituted “(determined in accordance with Section 23153)” for “of two hundred dollars (\$200)” after “tax” in subdivision (e). Stats. 2000, Ch. 862 (AB 1843), in effect January 1, 2001, added subdivision (f).

23182. Banks and financial corporations; tax in lieu of other taxes and licenses. The tax imposed under this part upon banks and financial corporations is in lieu of all other taxes and licenses, state, county and municipal, upon the said banks and financial corporations except taxes upon their real property, local utility user taxes, sales and use taxes, state energy resources surcharge, state emergency telephone users surcharge, and motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.

The changes in this section made by the 1979–80 Legislature with respect to sales and use taxes apply to taxable years beginning on and after January 1, 1980, and the remaining changes apply to taxable years beginning on and after January 1, 1981.

History.—Amended by Stats. 1975, Ch. 575, in effect September 6, 1975. Stats. 1979, Ch. 1150, in effect September 29, 1979, substituted “this part” for “Section 23181”; added “and financial corporations” after “banks”; and added “local utility user taxes, sales and use taxes, state energy resources surcharge, state emergency telephone users surcharge” after “real property” in the first paragraph; and added the second paragraph. Stats. 2001, Ch. 543 (SB 1185), in effect January 1, 2002, substituted “taxable years” for “income years” after “apply to” twice in the first sentence of the second paragraph.

Note.—Section 20 of Stats. 1979, Ch. 1150, provided that the amendment to Revenue and Taxation Code Section 23182 contained in this act reaffirms the Legislature’s longstanding purpose of insuring competitive parity between banks and financial corporations by subjecting both types of institutions to an equivalent tax burden. Equal tax treatment of banks and financial corporations promotes the continued existence of both types of institutions thereby affording a full range of financial services at competitive rates. Moreover, taxation of banks and financial corporations at the rate determined under Revenue and Taxation Code Section 23186 insures that their tax burden will be comparable to the combined state and local tax burdens of nonfinancial corporations subject to Revenue and Taxation Code Section 23151.

“The Legislature further finds that divergent and competing local tax measures imposed on financial corporations impair the uniform statewide regulation of banks and financial corporations. For this reason and those earlier expressed, the Legislature declares that the state, by this amendment, has preempted such local taxation of financial corporations to the same extent as the state has heretofore preempted local taxation of banks.”

23183. Financial corporations; franchise tax on net income.
(a) For taxable years beginning before January 1, 2000, an annual tax is hereby imposed upon every financial corporation doing business within the limits of this state and taxable under the provisions of Section 27 of Article XIII of the Constitution of this state, for the privilege of exercising its corporate franchises within this state, according to or measured by its net income, upon the basis of its net income for the next preceding income year at the rate provided under Section 23186.

(b) For purposes of this article, the term “financial corporation” does not include any corporation, including a wholly owned subsidiary of a bank or

bank holding company, if the principal business activity of such entity consists of leasing tangible personal property.

(c) (1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

History.—Amended by Stats. 1971, Ch. 1304, in effect October 29, 1971. Amended by Stats. 1972, Ch. 773, in effect March 7, 1973. Amended by Stats. 1974, Ch. 311, in effect January 1, 1975. Amended by Stats. 1977, Ch. 552, in effect September 3, 1977. Stats. 1979, Ch. 1150, in effect September 29, 1979, added the subdivision letters and added subdivision (b). Stats. 2000, Ch. 862 (AB 1843), in effect January 1, 2001, added “For taxable years beginning before January 1, 2000,” before “an annual” in the first sentence of subdivision (a); and added subdivision (c).

CHAPTER 4. EXEMPT CORPORATIONS

Article 1. Exemptions From This Part

- § 23709. Private foundation; definition; termination; support; gross investment income.
§ 23710. Organization conducting bingo games; proceeds for charitable purposes.

23709. Private foundation; definition; termination; support; gross investment income. (a) For the purposes of this part the term “private foundation” means a domestic or foreign organization defined in the Internal Revenue Code as a private foundation.

(b) For the purposes of this part, if an organization is a private foundation (within the meaning of subdivision (a)) on December 31, 1970, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after December 31, 1970, or after such subsequent date, unless its status as such is terminated.

(c) For purposes of this part, an organization the status of which as a private foundation is terminated shall be treated as an organization created on the day after the date of such termination, except in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee shall not be treated as a newly created organization.

(d) For purposes of this part, the term “support” includes (but is not limited to)—

- (1) Gifts, grants, contributions, or membership fees,

(2) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of Section 23734),

(3) Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

(4) Gross investment income (as defined in subdivision (e)),

(5) Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any federal, state, or local tax or any similar benefit.

(e) For purposes of this section, the term “gross investment income” means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by Section 23731.

23710. Organization conducting bingo games; proceeds for charitable purposes. Any organization exempted from taxes imposed under this part pursuant to the provisions of this article shall not be disqualified for such exemption on the basis that it conducts bingo games pursuant to Section 326.5 of the Penal Code, provided that the proceeds from those games are used exclusively for charitable purposes.

CHAPTER 24. ADMINISTRATIVE PROCEDURE

[Repealed by Stats. 1993, Ch. 31, in effect June 16, 1993,
operative January 1, 1994.]

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